

§ 106-579.10. Enforcement.

(a) When the Commissioner finds any antifreeze being distributed in violation of any of the provisions of this Article or of any of the rules and regulations duly promulgated and adopted under this Article by the Board, he may issue and enforce a written or printed "stop sale" or "withdrawal from distribution" order, warning the distributor not to dispose of any of the lot of antifreeze in any manner until written permission is given by the Commissioner or the court. Copies of such orders shall also be sent by certified mail to the registrant and to the person whose name and address appears on the labeling of the antifreeze. The Commissioner shall release for distribution the lot of antifreeze so withdrawn when said provisions of this Article and applicable rules and regulations have been complied with. If compliance is not obtained within 30 days of the date of notification to the registrant and the person whose name and address appears on the label, the Commissioner may begin proceedings for condemnation.

(b) Notwithstanding the provisions of subsection (a) of this section, any lot of antifreeze not in compliance with said provisions and regulations shall be subject to seizure upon complaint of the Commissioner to the district court in the county in which said antifreeze is located. In the event the court finds said antifreeze to be in violation of this Article and its duly adopted regulations, it may then order the condemnation of said antifreeze and the same shall be disposed of in any manner consistent with the rules and regulations of the Board and the laws of the State at the expense of the claimants thereof, under the supervision of the Commissioner; and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his agent; provided, however, that in no instance shall the disposition of said antifreeze be ordered by the court without first giving 30 days' notice, by certified mail at his last known address, to the owner of same, if he is known to the Commissioner, and to the registrant, if the antifreeze is registered, at the address shown on the label or on the registration certificate, so that such persons may apply to the court for the release of said antifreeze or for permission to process or relabel said antifreeze so as to bring it into compliance with this Article. When the violation can be corrected by proper labeling, processing of the product, or other action, the court, after all costs, fees and expenses incurred by the Commissioner have been paid and a good and sufficient bond, conditioned that such article shall be so corrected, has been executed, may by order direct that such article be delivered to the claimant thereof for such action as necessary to bring it into compliance with this Article and regulations under the supervision of the Commissioner. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the Commissioner that the antifreeze is no longer in violation of this Article, and that the expenses of such supervision have been paid.

(c) A copy of the analysis made by any chemist of the Department of Agriculture and Consumer Services of any antifreeze certified to by him shall be administered as evidence in any court of the State on trial of any issue involving the merits of antifreeze as defined and covered by this Article.

(d) When the Commissioner finds any antifreeze being distributed in violation of any of the provisions of this Article or of any of the rules and regulations duly promulgated and adopted by the Board, he may request, and the person whose name and address appears on the labeling or the person who is primarily responsible for the product must promptly supply to him, the distribution data for such product in this State, so as to assure that violative products are not further distributed herein and that an orderly withdrawal from distribution may be attained where necessary to protect the public interest. (1949, c. 1165; 1975, c. 719, s. 10; 1997-261, s. 109.)